

Full ESF Draft Contract 1-13-14

Special Terms and Conditions

1. Definitions

- a. "Advanced directive", as used in this contract, means any document indicating a resident's choice with regard to a specific service, treatment, medication or medical procedure option that may be implemented in the future such as power of attorney health care directive, limited or restricted treatment cardiopulmonary resuscitation (CPR), do not resuscitate (DNR), and organ tissue donation.
- b. "ALTSA" means the Aging and Long-Term Support Administration of DSHS.
- c. "Assessment" means the Contractor's inventory and evaluation of abilities and needs of a resident, or potential resident, based on an in-person interview, using CARE Assessment Details and any other personal information, as well as information gathered by ESF team prior to placement.
- d. "Authorized" means the services have been approved by DSHS.
- e. "Capacity" means the maximum amount an enhanced services facility can serve is sixteen residents.
- f. "CARE assessment details" means a summary of information that the department entered into the CARE assessment describing resident needs and used to develop a plan of care. CARE is an abbreviation of the department-approved assessment known as Comprehensive Assessment Reporting Evaluation.
- g. "Case manager" means the department staff person or designee assigned to negotiate, monitor and facilitate a service plan for residents receiving services fully paid for by the Department.
- h. "Chemical dependency" means alcoholism, drug addiction, or dependence on alcohol and one or more other psychoactive chemicals, as the context requires and as those terms are defined in Chapter 70.96A RCW.
- i. "Client participation" means the amount of the Client's nonexempt income, if any, that the Contractor shall collect directly from the Client and apply to the cost of the Client's authorized care.
- j. "Continuous Quality Improvement" (CQI) means a structured, cyclical process for improving systems and processes in an organization or program that includes the following steps:
 - 1) Plan – Identify an opportunity and plan for change;
 - 2) Do – Implement the change on a small scale;
 - 3) Study – Use data to measure the results of the change and determine whether or not it made a difference; and
 - 4) Act – If the change was successful, implement it on a wider scale and continuously assess results. If the change did not work, begin the cycle again.

- k. "Crisis" means a set of circumstances or events that: (1) put a client at risk of hospitalization or loss of residence; and/or (2) exceeds a client's individual ability to cope/remain stable; and/or (3) exceeds the ability of the client's caregivers to provide the necessary supports. Crises may be precipitated by a stressful event or traumatic change in the person's life or it may be a part of the course of the person's mental health disorder or other medical conditions. The existence of a crisis may be identified by a major change in a person's baseline functioning.
- l. "Enhanced Services Facility (ESF)" means a facility that provides treatment and services to persons for whom acute inpatient treatment is not medically necessary and who have been determined by the department to be inappropriate for placement in other licensed facilities due to the complex needs that result in behavioral and security issues. For purposes of this contract, an enhanced services facility is not an evaluation and treatment facility certified under Chapter 71.05 RCW.
- m. "Facility" means an enhanced services facility.
- n. "HCS" means Home and Community Services, a Division of the Aging and Long-Term Support Administration
- o. "Homelike" means an environment where the resident: has choice; has privacy; is free to decorate or furnish their sleeping or living unit; shares a room with people of their choosing; has freedom to control their own schedules; and has access to food unless any of these items cause a safety risk for themselves or others.
- p. "Individual Treatment Plan (ITP)" means the most recent written plan of care describing services to be provided to the resident. The ITP is negotiated between the Contractor and the Resident (and/or the Resident's representative) in accordance with Chapter 70.97 RCW and Chapters 388-107 and 388-106 WAC. The Comprehensive ITP must include:
 - 1) All topics described in WAC 388-107-0120;
 - 2) A written activity section;
 - 3) A behavioral support plan; and
 - 4) A crisis prevention protocol.
- q. "Medically fragile" means a chronic and complex physical condition which results in prolonged dependency on specialized medical care that requires frequent daily skilled nursing interventions. If these medically-necessary interventions are interrupted or denied, the resident may experience irreversible damage or death. Examples of specialized medical care and treatment for medically fragile residents include but are not limited to: IV therapies requiring monitoring of vital signs and dose titration dependent on lab values; wound care requiring external vacuum or other mechanical devices for debridement; complicated wound care requiring other specialized or extensive interventions and treatment; ventilator or other respiratory device dependence and monitoring; dependence on licensed staff for complex respiratory support; and peritoneal or hemodialysis (on-site).
- r. "Mental health advanced directive" or "directive" means any written document in which the principal makes a declaration of instructions or preferences or appoints an agent to make decisions on behalf of the principal regarding the principal's mental health treatment, or both, and that is consistent with the provisions of Chapter 71.32

RCW.

- s. "Mental health professional" means a psychiatrist, psychologist, psychiatric nurse, licensed mental health counselor, licensed mental health counselor-associate, licensed marriage and family therapist, licensed marriage and family therapist-associate, licensed independent clinical social worker, licensed independent clinical social worker-associate, licensed advanced social worker, or licensed advance social worker-associate and such other mental health professionals as may be defined by rules adopted by the secretary under the authority of Chapter 71.05 RCW.
- t. "Optimum functioning" means the highest level of functioning that an individual can be reasonably expected to maintain.
- u. "Physical restraint" means **manually** holding all or part of a person's body in a way that restricts the person's free movement; also includes any approved controlling maneuvers, such as holds taught in approved training for de-escalation techniques and control of self-harm or aggressive behavior. **This definition does not apply to briefly holding, without undue force, a person in order to calm the person, or holding a person's hand to escort the person safely from one area to another.**
- v. "Psychiatrist" means a person having a license as a physician and surgeon in this state who has in addition completed three years of graduate training in psychiatry in a program approved by the American Medical Association or the American Osteopathic Association and is certified or eligible to be certified by the American Board of Psychiatry and Neurology.
- w. "Psychologist" means a person who has been licensed as a psychologist under Chapter 18.83 RCW.
- x. "Reassessment" means the Contractor's review and update of the assessment when the resident experiences a significant change in condition or, at a minimum, every one hundred eighty days if there is no significant change in condition.
- y. "Registration records" include all the records of the department, regional support networks, treatment facilities, and other persons providing services to the department, county departments, or facilities which identify individuals who are receiving or who at any time have received services for mental illness.
- z. "Resident" means a person admitted to an enhanced services facility.
- aa. "RCS" means Residential Care Services, a Division of the Aging and Long-Term Support Administration.
- bb. "RCW" means the Revised Code of Washington. All references in this Contract to RCW chapters or sections shall include any successor, amended, or replacement statute. Pertinent RCW chapters can be accessed at <http://apps.leg.wa.gov/rcw/>.
- cc. "Security Precautions" means environmental modifications to ensure the safety of the residents that may include, but are not limited to, the following:
 - 1) The use of restricted egress or other means to manage residents who may wander including but not limited to door and/or window alarms, visual screening

- of windows and fence openings;
 - 2) Appropriate supervision of the resident in the facility and in the community settings; and
 - 3) Other modifications or restrictions recommended by the resident's ESF team and/or described in their ITP.
- dd. "Services" means the Contractor shall provide to the client as specified in the client's ITP. Each service shall mean the same as the specific service definition in chapter 388-106 WAC.
- ee. "Significant change" means:
- 1) A deterioration in a resident's physical, mental, or psychosocial condition that has caused or is likely to cause clinical complications or life-threatening conditions; or
 - 2) An improvement in the resident's physical, mental, or psychosocial condition that may make the resident eligible for discharge or for treatment in a less intensive or less secure setting.
- ff. "Social worker" means a person with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010.
- gg. "Specialized Environment" means a place where the resident has agreed to supervision in a safe, structured, homelike manner specifying rules, requirements, restrictions, and expectations for personal responsibility in order to maximize community safety.
- hh. "Stable Community Placement" means placement in the least restrictive setting consistent with the individual's level of functioning, where the individual's health and safety needs can be met.
- ii. "Treatment" means the broad range of emergency, detoxification, residential, inpatient, and outpatient services and care, including diagnostic evaluation, mental health or chemical dependency education and counseling, medical, physical therapy, restorative nursing, psychiatric, psychological, and social service care, vocational rehabilitation, and career counseling.
- jj. "Treatment records" include registration and all other records concerning individuals who are receiving or who at any time have received services for mental illness, which are maintained by the department, regional support networks and their staffs, and treatment facilities. "Treatment records" do not include notes or records maintained for personal use by an individual providing treatment services for the department, regional support networks, or a treatment facility if the notes or records are not available to others.

2. Statement of Work

a. Contractor Responsibilities and Program Elements

- 1) The Contractor will provide the services and support defined in this contract to DSHS clients who have been screened by Home and Community Services and who, based on WAC 388-106-0075 and subject to available funds, are deemed

by HCS to be eligible for admission and whose needs can be met by the Contractor. The Contractor will provide services as specified in each resident's Individual Treatment Plan (ITP) approved by DSHS and/or DSHS's designee. The ITP for DSHS resident(s) placed in the Contractor's facility by DSHS is incorporated in this Contract by reference. The Contractor will develop each assessment and ITP based on the guidelines described in the section titled Comprehensive Assessments and Individual Treatment Plan below.

- 2) The Contractor will meet with potential residents, state hospital staff, DSHS staff, and other involved parties as needed prior to admitting any specific potential DSHS client and will lead the pre-transition and coordination planning process as outlined in the section titled the same, below.
- 3) The Contractor will identify an ESF team for each DSHS client admitted as an ESF resident and will ensure that the definition and roles of the team are consistent with the contract details outlined in the section titled ESF Team and Roles below.
- 4) The Contractor will develop a plan of discharge for each ESF resident as outlined in the section titled Stipulations about Discharge below.
- 5) The Contractor will ensure that the program developed in the Contractor's ESF include the following elements/meet the following guidelines:
 - i. A specialized environment that is homelike and promotes resident choice and the stability of each ESF resident.
 - ii. Ensures there are policies and procedures related to security precautions to meet the safety needs of the population served and are in compliance with ESF Resident Rights as outlined in WAC 388-107-0190.
 - iii. Activities relevant to the residents' interests, choices, and abilities are planned and available daily to the residents. The activities program should include both individual and facilitated group activities. Opportunities for independent, self-directed and individualized activities should be available at any time.
 - iv. Behavior support and/or behavioral health treatment as identified in each resident's ITP. No form of physical or chemical restraints and/or seclusions will be allowed or utilized in the ESF.
 - v. Quality Improvement measures as outlined in the section below titled Quality Improvement Committee.

Verification includes but is not limited to 1) ESF program specific requirements during RCS licensing, monitoring, inspections, and complaint investigations; 2) ESF Program Manager and 3) HCS Regional field staff request for information and/or compliance review.

b. ESF Team and Roles

- 1) The ESF team for each ESF resident will include the following members:
 - i. The resident receiving the ESF service, and/or his or her self-identified support team, including any representative, such as guardian or power-of-attorney for the resident.

- ii. Nursing Assistant Certified (NAC) or Home Care Aide Certified.
 - iii. Mental health professional (includes psychiatrist, psychologist, psychiatric nurse, or social worker) or contracted chemical dependency agency staff if indicated by the needs of the population served;
 - iv. Activities or recreational staff;
 - v. Nursing Staff (RN and may also include LPN staff);
 - vi. Additional members may also include and would not be limited to the following:
 - a) Administrator;
 - b) Medication prescriber;
 - c) The DSHS staff involved in the individual's case management, and the HCS Behavior Specialist;
 - d) Other DSHS contracted professionals who are supporting the individual;
 - e) Other service providers involved with the ongoing care of the resident; and
 - f) State hospital staff involved in the individual's move to the ESF.
- 2) The role of the team is to ensure a coordinated approach to develop, implement and evaluate the ITP in order to maintain a stable community placement, and promote optimum functioning and resident choice.
 - 3) The team will meet at least monthly to review and modify the plan as needed with the goal being to support the resident in the least restrictive setting and minimize the use of emergency departments, hospitalizations and crisis responders.
 - 4) Additional ESF team meetings, including community-based systems partners will be convened as needed if the resident is experiencing signs/symptoms of crisis that: (1) put a resident at risk of hospitalization, institutionalization, or loss of residence; and/or (2) exceeds a resident's individual ability to cope/remain stable; and/or (3) exceeds the ability of the resident's caregivers to provide the necessary supports.
 - 5) The Contractor will ensure the facility staff attend the meetings and participate in the development and review of the ITP for each ESF resident. All work performed under this Contract and any ITP shall be performed in accordance with WAC 388-107-0190 Resident Rights.
 - 6) Pursuant to WAC 388-107-0590, the ESF contractor is required to report all incidents to RCS Complaint Resolution Hotline at 1-800-562-6078.

Verification includes but is not limited to 1) ESF program specific requirements during RCS licensing, monitoring, inspections, and complaint investigations; 2) ESF Program Manager and 3) HCS Regional field staff request for information and/or compliance review.

c. Staffing Levels

- 1) The Contractor will employ or contract for sufficient numbers of staff with the appropriate credentials and training to provide a safe, secure environment and to meet the needs of each resident, including the following:

- i. Personal Care;
 - ii. Assistance with the activities of daily living;
 - iii. Medical treatment, including psychiatric;
 - iv. Medication management service;
 - v. Nursing services;
 - vi. Mental health treatment;
 - vii. Activities;
 - viii. Social services support;
 - ix. Dietary services; and
 - x. Chemical dependency treatment, as indicated by the needs of the population served.
- 2) The Contractor will ensure that at least two (2) staff are on duty in the facility at all times, regardless of the minimum number of residents, and will ensure the following staffing ratios for each shift:
- 3) Day and evening shifts (7 a.m. – 11 p.m.) will have a minimum of one (1) staff to three (3) residents; night shift (11 p.m. – 7 a.m.) will have a minimum of one (1) awake staff for four (4) residents; and all shifts will have a higher staff to resident ratio as the residents' needs require. The facility will ensure the following staff ratios:
 - i. A licensed nurse must be on duty in the facility at all times;
 - ii. A Registered Nurse must be on duty at least eight (8) hours per day;
 - iii. A Registered Nurse must be on call during any shift that a licensed practical nurse is on duty; and
 - iv. A mental health professional must be on duty at least sixteen (16) hours a day.
- 4) Positions counted in the staffing ratios are:
 - i. RN or LPN
 - ii. Nursing Assistant Certified NAC or Home Care Aide Certified
 - iii. Mental health professional
- 5) In addition, the ESF Contractor who specializes in medically fragile persons shall ensure sufficient coverage by a registered nurse to meet the needs of the individuals who are considered medically fragile and at minimum will have an RN on site 7 a.m. – 11 p.m. and on call 11 p.m. – 7 a.m. to support the needs of the medically fragile.
- 6) The ESF Contractor will ensure additional and appropriate staffing based on the residents' ITPs.

Verification including but not limited to 1) ESF program specific requirements during RCS licensing, monitoring, inspections, and complaint investigations; 2) ESF Program Manager and 3) HCS Regional field staff request for information and/or compliance review.

d. Staffing Credentials and Training, Background Checks

- 1) Contractor will complete Background checks for all staff in accordance with RCW 70.97.080 and WAC 388-107-1210.

- 2) The ESF Contractor will ensure the Administrator meets the requirements in WAC 388-107-1180 and has demonstrated expertise in the population served in the ESF beds as described through the Administrator's resume and educational requirements. The resume must be approved by HCS, based on Administrator Qualifications outlined in WAC 388-107-1180.
- 3) The Contractor will ensure that there is an AL TSA approved training plan in effect for all staff that includes training opportunities beyond those outlined in Chapters 388-107 and 388-112 WAC and ensures the following:
 - i. All on-site staff, managers and administrators, prior to having unsupervised contact with resident, successfully complete mental health and dementia specialty training and demonstrate competency as outlined in WAC 388-112-0110;
 - ii. The Contractor shall comply with the continuing education requirements for HCA Certified and in-service education for NACs who work directly with residents. 10 of the 12 hours of training each on-site staff receives annually must be relevant to the population intended to be served in the ESF program.
 - iii. In addition to the 12 hours of continuing education required of each on-site staff annually, the Contractor will provide an additional three (3) hours of training per quarter relevant to the issues, behaviors, or challenges presented by the ESF residents served by the facility. All training must meet the requirements outlined in WAC 388-112-0320.
- 4) If the Contractor's training plan includes the use of a facility-based trainer, the trainer must meet the same requirements as those for a community-based trainer, as outlined in Chapter 388-112 WAC.
 - i. Training plans must be submitted, reviewed and approved by the ESF Program Manager or designee.
 - ii. Curriculum must be approved by the Department.

Verification includes but is not limited to 1) ESF program specific requirements during RCS licensing, monitoring, inspections, and complaint investigations; 2) ESF Program Manager and 3) HCS Regional field staff request for information and/or compliance review.

e. Pre-Transition Planning and Coordination

- 1) The Contractor will meet with DSHS and State Hospital staff to identify potential residents and will participate in pre-transition planning for each DSHS client who is accepted for admission into the ESF.

Verification includes but is not limited to ESF Program Manager and HCS Regional field staff request for information and/or compliance review.

f. Comprehensive Assessments and Individual Treatment Plan (ITP)

- 1) The Contractor will coordinate services provided by the contractor with services provided by Primary Care Providers, including all medication prescribers, Behavioral Support providers and any other providers contracted by the ESF facility or DSHS.
- 2) The ESF Contractor shall complete a comprehensive assessment for each

resident within fourteen (14) days of admission, and the assessments shall be repeated upon a significant change in the resident's condition or, at a minimum, every one hundred eighty (180) days if there is no significant change in condition. All assessments and reassessments performed under this Contract shall be performed in accordance with RCW 70.97.040 and WAC 388-107-0190.

- 3) The Contractor will ensure the ESF team develops one Individual Treatment Plan (ITP) for each ESF resident.
- 4) ITP s will be developed by the ESF team, in collaboration with the resident and the resident's self-identified support team.
- 5) The ESF team must review the ITP monthly and updated as needed and after each assessment and reassessment.
- 6) The ITP will be based on the assessment or reassessment completed by the contractor and Assessment Details and Service Plan in the Department's CARE Assessment. The ITP should be developed in accordance with the format provided by DSHS and must include the following:
 - i. An Activity Section written to support each ESF resident's interests, strengths, and needs and provide for recreational opportunities specifically designed to meet the behavioral challenges of the resident. Activities must be integrated into the daily routine of the resident and staff and must address specific issues identified by the resident and the ESF team.
 - ii. A Behavior Support section designed to prevent crises and to maintain placement in the ESF. The Behavior Support section will include the following elements:
 - a) A Crisis Prevention and Response Protocol that outlines specific indicators which may signal a potential crisis for the individual or that when left unaddressed in the past, has led to a behavioral crisis. These signals would include but not be limited to typical behaviors the individual displays when escalating, actions the resident may typically take prior to a behavioral outburst, or words or phrases the individual has been known to express during a time of escalation;
 - b) Specific interventions and pre-crisis prevention strategies for each of the indicators described above; and
 - c) A Crisis Prevention and Response Protocol that outline steps to be taken by each of the ESF Team members if the prevention or intervention strategies are unsuccessful in diverting the individual from a behavior or action that leads to crisis.
 - d) The Crisis Prevention and Response Protocol will include a plan to ensure coordination with community crisis responders in regard to each resident's ITP as part of a regular, routine protocol for crisis prevention and intervention.
- 7) The ITP shall include appropriate information needed to transfer or discharge a resident from the ESF in order to live more independently in the community. In addition, the ITP shall maximize the opportunities for independence, recovery, employment, the resident's participation in treatment decisions, collaboration with

peer-supported services, and the provision of care and treatment in the least restrictive manner appropriate to the individual resident, and, where relevant, to comply with any current court orders.

- 8) All ITP s must be available for review by the HCS social worker and/or case manager and provided to the social worker and/or case manager on a yearly basis and as significant changes and updates are made.
- 9) If the resident's physical or mental health status changes as defined by a significant change, (WAC 388-107-0001) the Contractor will notify within twenty-four (24) hours the HCS social worker and/or case manager and other pertinent ESF team members.
- 10) The ESF Contractor shall honor advanced directives that are validly executed pursuant to chapter 70.122 RCW and a mental health advanced directive that was validly executed pursuant to Chapter 71.32 RCW.
- 11) The Contractor will develop and implement written policies and procedures that meet the standards described in WAC 388-107-1580 including:
 - i. Transitioning new residents;
 - ii. Security precautions;
 - iii. Crisis prevention and response protocol
 - iv. Discharge planning.

Verification includes but is not limited to 1) ESF program specific requirements during RCS licensing, monitoring, inspections, and complaint investigations; 2) ESF Program Manager and 3) HCS Regional field staff request for information and/or compliance review.

g. Stipulations about Discharge

- 1) Upon completion of the annual reassessment and/or significant change assessment by both HCS staff and the contractor, the ESF team will review each resident for possible discharge. Indicators will include:
 - i. The resident no longer needs the level of behavioral support provided under this contract;
 - ii. The resident's behaviors are now mitigated by their medical or personal care needs;
 - iii. The resident expresses the desire to move to a different type of community based setting and has demonstrated the ability or capacity to be successful;
 - iv. The ESF team considers the resident a good candidate for relocation and recommends other community based programs to the resident.
- 2) The Contractor must provide a thirty (30) day written notice before discharging a resident, unless the situation is emergent and the HCS case manager is involved in the decision, per WAC 388-107-0280.
- 3) The Contractor, with input from the ESF team, will meet with HCS staff to identify

potential residents and will participate in discharge planning for each DSHS client who meets the above criteria for potential discharge from the ESF.

Verification includes but is not limited to ESF Program Manager and HCS Regional field staff request for information and/or compliance review.

h. Quality Improvement Committee

- 1) The Contractor will appoint a Quality Improvement Committee that includes a multi-disciplinary team and meets the definitions in this contract and WAC 388-107-0220. At the beginning of the second contract year, the Contractor will plan one Continuous Quality Improvement (CQI) project annually to share with HCS staff to improve a system or process in the ESF facility that meets the CQI definition. A CQI project will be completed by the end of the second calendar year of the contract and select a new project annually thereafter.
- 2) The Contractor will submit their annual ESF CQI project on the HCS department approved reporting form to the ESF Program Manager.

Verification includes but is not limited to ESF Program Manager and HCS Regional field staff request for information and/or compliance review.

i. Client Eligibility

- 1) The Contractor will follow admission criteria guidelines pursuant to WAC 388-106-0030. Placement of Medicaid eligible residents in the ESF must be made through ALTSA/HCS field staff to the ALTSA HCS ESF Program Manager. ALTSA reserves the right to deny approval of individuals referred based on client eligibility, the availability of beds, significant citations or enforcement actions.

Verification includes but is not limited to 1) ESF program specific requirements during RCS licensing, monitoring, inspections, and complaint investigations; 2) ESF Program Manager and 3) HCS Regional field staff request for information and/or compliance review.

j. Availability of Beds per Contractor

k.

- 1) The contractor will provide care to a maximum of _____ clients deemed eligible by DSHS for this program. Additional beds will be granted only upon express, written approval of the HCS ESF Program Manager, or his/her successor or designee.

Verification includes but is not limited to ESF Program Manager and HCS Regional field staff request for information and/or compliance review.

3. Payment for Services

- a. DSHS shall pay to the Contractor a daily rate per Client based on _____

- b. The daily rate paid for all services provided to any DSHS Client in the Contractor's facility under this Contract shall not exceed the amount authorized for each Client. The Contractor hereby waives written notice of subsequent rate changes and further agrees that if performance under this Contract continues, such performance shall be compensated at the subsequent rate(s). Subsequent rate changes shall not require a Contract amendment.
- c. The Contractor accepts the DSHS payment amount, with the Client participation amount required by federal and state regulations, as sole and complete payment for the services provided under this Contract. The Contractor shall be responsible for collection of the Client's participation amount (if any) from the Client in the month in which services are provided.
- d. DSHS shall mail the Contractor's payment for services to the mailing address specified on page one of this Contract.
- e. DSHS shall not reimburse the Contractor for authorized services not provided to Clients, or for services provided which are not authorized or provided in accordance with the Statement of Work. If DSHS pays the Contractor for services authorized but not provided by the Contractor in accordance with this Contract's Statement of Work, the amount paid shall be considered to be an overpayment.
- f. The Contractor shall not charge the Client, or anyone else on behalf of the Client, for medical assistance covered services as defined in RCW 74.09.520. This excludes any Client participation amount.
- g. In the event the Provider One Payment System is completed and in use during the period of this Contract, the new payment system will replace SSPS and DSHS will provide new billing instructions to the Contractor. Unless the Contractor provides written objection to the new billing instructions within ten (10) days of receipt, any new billing instructions are hereby incorporated by reference into this Contract and the Contractor agrees that a Contract Amendment is not needed. Once in use, the Provider One Payment System will be the only payment system through which DSHS will make payments under this Contract. Any Contractor objecting to the new billing instructions should follow the contract termination process set forth in Termination for Convenience section.

4. Contractor Qualifications

- a. A facility licensed as an Enhanced Services Facility (ESF) in accordance to RCW 70.97 and as defined in WAC 388-107-0001 shall provide care to individuals who are deemed by DSHS to meet the eligibility requirements described in WAC 388-107-0030 and whose needs the facility can safely and appropriately meet through qualified and trained staff, services, medical and/or adaptive equipment and building design.
- b. The ESF Contractor shall ensure qualified professionals are available as required by this contract to furnish needed services. If the Contractor does not employ the qualified professional, they must ensure the facility has a written contract with a qualified professional or agency outside the facility to furnish the needed services in

compliance with the Subcontracting section and Indemnification and Hold Harmless section, General Terms and Conditions of this contract. Prior written approval to subcontract is required by this contract.

5. Contractor Certifications. The Contractor acknowledges and certifies as follows:

- a. The Contractor shall not accept any DSHS Client or other placement in excess of the Contractor's licensed capacity as stated in the Contractor's DSHS ESF license.
- b. The Contractor shall maintain an ESF contract with the State of Washington, DSHS, relevant to the area where ESF services are provided for the duration of this Contract.

6. Duty to Disclose

- a. Pursuant to 42 CFR §455.104, the Contractor is required to provide disclosures from individuals with ownership interest, managing employees, and those with a controlling interest. The State must obtain certain disclosures from providers and complete screenings to ensure the State does not pay federal funds to excluded person or entities. Contractor must complete and submit a Medicaid Provider Disclosure Statement, DSHS Form 27-094. According to 42 CFR 455.104(c) (1), disclosures must be provided:
 - 1) When the prospective Contractor submits their initial application;
 - 2) When the prospective Contractor signs the contract;
 - 3) Upon request of the Department at contract revalidation/renewal;
 - 4) Within thirty-five (35) days after any change in ownership of the Contractor entity.
- b. Failure to submit the requested information may cause the Department to refuse to enter into an agreement or contract with the Contractor or to terminate existing agreements. The State will recover any payments made to a disclosing entity that fails to disclose ownership or control information, as required by 42 CFR 455.104.
- c. Pursuant to 42 CFR §455.105(b), within thirty-five (35) days of the date on a request by the Secretary of the U.S. Department of Health and Human Services or DSHS, Contractor must submit full and complete information related to Contractor's business transactions that include:
 - 1) The ownership of any subcontractor with whom the Contractor has had business transactions totaling more than \$25,000 during the twelve (12) month period ending on the date of the request; and
 - 2) Any significant business transactions between the Contractor and any wholly owned supplier, or between the Contractor and any subcontractor, during the five (5) year period ending on the date of the request.
- d. Failure to comply with requests made under this term may result in denial of

payments until the requested information is disclosed. See 42 CFR §455.105(c).

7. Provider Screenings

- a. The state must ensure the Department does not pay federal funds to excluded persons or entities. The required ownership and control information for individuals with ownership interest of 5% or more, officers and managing employees will be obtained from the Medicaid Provider Disclosure Statement and checked against the required federal exclusion lists below prior to finalizing a contract. The required federal exclusion lists currently are:
 - 1) List of Excluded Individuals/Entities (LEIE) administered by the US Department of Health and Human Services, Office of the Inspector General (HHS-OIG); and
 - 2) Excluded Parties List System (EPLS), now migrated to the System of Award Management (SAM), administered by the US General Services Administration.
- b. Federal regulations require states to check for the death of an individual provider, agency owner or authorized official. The Department will screen all persons with ownership interest of 5% or more, officers, and managing employees through the Social Security Death Master List prior to contracting in order to meet this requirement.
- c. The Contractor will report any change in ownership, managing employees, and/or those with a controlling interest to the Department within thirty-five (35) days of such a change so that these individuals can be screened against the required federal exclusion lists as well as the Social Security Death Master List.

8. State or Federal Audit Requests

- a. The Contractor is required to respond to State or Federal audit requests for records or documentation, within the timeframe provided by the requestor. The Contractor must provide all records requested to either State or Federal agency staff or their designees.
- b. The ESF Contractor will comply with HCS requests for written information, including treatment and registration records. The ESF Contractor shall maintain resident records that comply with state and federal regulations and health care information release requirements according to RCW 70.97.200. Records must be:
 - 1) Maintained to enable the provision of necessary treatment, care, and services and to respond appropriately in emergency situations;
 - 2) Compliant with all state and federal requirements related to documentation, encryption, confidentiality, and information sharing, including chapters 10.77, 70.02, 70.24, 70.96A, and 71.05 RCW;
 - 3) Maintained in a secured area using trusted systems to deliver or exchange information.
- c. Where possible, obtain signed releases of information designating the department

and the facility as recipients of health care information.

9. False Claims Act Education Compliance

- a. Federal law requires any entity receiving annual Medicaid payments of \$5 million or more to provide education regarding federal and state false claims laws for all of its employees, contractors and/or agents. If Contractor receives at least \$5 million or more in annual Medicaid payments under one or more provider identification number(s), the Contractor is required to establish and adopt written policies for all employees, including management, and any contractor or agent of the entity, including detailed information about both the federal and state False Claims Acts and other applicable provisions of Section 1902(a) (68) of the Social Security Act. The law requires the following:
 - 1) Contractor must establish written policies to include detailed information about the False Claims Act, including references to the Washington State False Claims Act;
 - 2) Policies regarding the handling and protection of whistleblowers;
 - 3) Policies and procedures for detecting and preventing fraud, waste, and abuse;
 - 4) Policies and procedures must be included in an existing employee handbook or policy manual, but there is no requirement to create an employee handbook if none already exists.

10. Duty to Report Suspected Abuse, Abandonment, Neglect or Financial Exploitation

- a. The ESF Contractor and its employees must immediately report all instances of suspected abandonment, abuse, financial exploitation or neglect of a vulnerable adult (per RCW 74.34.035) or a child (per RCW 26.44.030). The report shall be made to the Department's current state abuse hotline, 1-866-363-4276 (END-HARM). The Contractor must also report all suspected instances to the Client's case manager within twenty-four (24) hours. If the notice to the Client's case manager was verbal then it must be followed by written notification within forty-eight (48) hours. Further, when required by RCW 74.34.035, the Contractor and the Contractor's employees must immediately make a report to the appropriate law enforcement agency.

11. Background Check

- a. The Contractor agrees to undergo a criminal history background check conducted by DSHS, as required by RCW 70.97 and WAC 388-107-XXX. If the Contractor has employees or volunteers who will have unsupervised access to Clients in the course of performing the work under this Contract, the Contractor must conduct and maintain documentation of criminal history background checks on those employees or volunteers.

12. Death of Clients

- a. The Contractor shall report all deaths of DSHS Clients receiving services under this

Contract to the Client's Case Manager within twenty-four (24) hours of finding out about the death. In addition, the Contractor shall provide written notification of the Client's death to the Client's Case Manager within seven (7) days.

13. Drug-Free Workplace

- a. The Contractor agrees he or she and all employees or volunteers shall not use or be under the influence of alcohol, marijuana, illegal drugs, and/or any substances that impact the Contractor's ability to perform duties under this Contract.

14. Significant Change in Client's Condition

- a. The Contractor agrees to report any significant change in the Client's condition within twenty-four (24) hours to the Case Manager who is identified in the Client's current assessment details and/or ITP.

15. Bribes and Kickbacks

- a. Federal law stipulates that Medicaid participants be offered free choice among qualified providers, therefore any exclusive relationship between the Contractor and any other Medicaid Service is prohibited.

16. Insurance

- a. The Contractor shall at all times comply with the following insurance requirements.
 - 1) General Liability Insurance
 - i. The Contractor shall maintain Commercial General Liability Insurance, or Business Liability Insurance, including coverage for bodily injury, property damage, and contractual liability, with the following minimum limits: Each Occurrence - \$1,000,000; General Aggregate - \$2,000,000. The policy shall include liability arising out of the parties' performance under this Contract, including but not limited to premises, operations, independent contractors, products-completed operations, personal injury, advertising injury, and liability assumed under an insured contract. The State of Washington, Department of Social & Health Services (DSHS), its elected and appointed officials, agents, and employees of the state, shall be named as additional insured's.
 - ii. In lieu of general liability insurance mentioned above, if the contractor is a sole proprietor with less than three contracts, the contractor may choose one of the following three general liability policies but only if attached to a professional liability policy, and if selected the policy shall be maintained for the life of the contract:
 - iii. Supplemental Liability Insurance, including coverage for bodily injury and property damage that will cover the contractor wherever the service is performed with the following minimum limits: Each Occurrence - \$1,000,000; General Aggregate - \$2,000,000. The State of Washington, Department of Social & Health Services (DSHS), its elected and appointed officials, agents, and employees shall be named as additional insured's.

- or
 - iv. Workplace Liability Insurance, including coverage for bodily injury and property damage that provides coverage wherever the service is performed with the following minimum limits: Each Occurrence - \$1,000,000; General Aggregate - \$2,000,000. The State of Washington, Department of Social & Health Services (DSHS), its elected and appointed officials, agents, and employees of the state, shall be named as additional insured's.
 - or
 - v. Premises Liability Insurance and provide services only at their recognized place of business, including coverage for bodily injury, property damage with the following minimum limits: Each Occurrence - \$1,000,000; General Aggregate - \$2,000,000. The State of Washington, Department of Social & Health Services (DSHS), its elected and appointed officials, agents, and employees of the state, shall be named as additional insured.
- 2) Business Automobile Liability Insurance
- i. The Contractor shall maintain a Business Automobile Policy on all vehicles used to transport clients, including vehicles hired by the Contractor or owned by the Contractor's employees, volunteers or others, with the following minimum limits: \$1,000,000 per accident combined single limit. The Contractor's carrier shall provide DSHS with a waiver of subrogation or name DSHS as an additional insured.
- 3) Professional Liability Insurance (PL)
- i. The Contractor shall maintain Professional Liability Insurance or Errors & Omissions insurance, including coverage for losses caused by errors and omissions, with the following minimum limits: Each Occurrence - \$1,000,000; Aggregate - \$2,000,000.
- 4) Worker's Compensation
- i. The Contractor shall comply with all applicable Worker's Compensation, occupational disease, and occupational health and safety laws and regulations. The State of Washington and DSHS shall not be held responsible for claims filed for Worker's Compensation under RCW 51 by the Contractor or its employees under such laws and regulations.
- 5) Employees and Volunteers
- i. Insurance required of the Contractor under the Contract shall include coverage for the acts and omissions of the Contractor's employees and volunteers. In addition, the Contractor shall ensure that all employees and volunteers who use vehicles to transport clients or deliver services have personal automobile insurance and current driver's licenses.
- 6) Subcontractors
- i. The Contractor shall ensure that all subcontractors have and maintain insurance with the same types and limits of coverage as required of the Contractor under the Contract.
- 7) Separation of Insured's

- i. All insurance policies shall include coverage for cross liability and contain a "Separation of Insured's" provision.

8) Insurers

- i. The Contractor shall obtain insurance from insurance companies identified as an admitted insurer/carrier in the State of Washington, with a Best's Reports' rating of B++, Class VII, or better. Surplus Lines insurance companies will have a rating of A-, Class VII, or better.

9) Evidence of Coverage

- i. The Contractor shall, upon request by DSHS, submit a copy of the Certificate of Insurance, policy, and additional insured endorsement for each coverage required of the Contractor under this Contract. The Certificate of Insurance shall identify the Washington State Department of Social and Health Services as the Certificate Holder. A duly authorized representative of each insurer, showing compliance with the insurance requirements specified in this Contract, shall execute each Certificate of Insurance.
- ii. The Contractor shall maintain copies of Certificates of Insurance, policies, and additional insured endorsements for each subcontractor as evidence that each subcontractor maintains insurance as required by the Contract.

10) Material Changes

- i. The insurer shall give the DSHS point of contact listed on page one of this Contract 45 days advance written notice of cancellation or non-renewal. If cancellation is due to non-payment of premium, the insurer shall give DSHS 10 days advance written notice of cancellation.

11) General

- i. By requiring insurance, the State of Washington and DSHS do not represent that the coverage and limits specified will be adequate to protect the Contractor. Such coverage and limits shall not be construed to relieve the Contractor from liability in excess of the required coverage and limits and shall not limit the Contractor's liability under the indemnities and reimbursements granted to the State and DSHS in this Contract. All insurance provided in compliance with this Contract shall be primary as to any other insurance or self-insurance programs afforded to or maintained by the State.

12) Waiver

- i. The Contractor waives all rights, claims and causes of action against the State of Washington and DSHS for the recovery of damages to the extent said damages are covered by insurance maintained by Contractor.